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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,113	12/17/1999	JAMES P. KETRENOS	INTL-0248-US	9791

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EXAMINER

MIRZA, ADNAN M

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 12/11/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/466,113

Applicant(s)

KETRENOS ET AL.

Examiner

Adnan M Mirza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wlaschin (U.S. 5,850,522) and in view of Gayman (U.S. 6,256,673).

As per claim 1 Wlaschin disclosed a method comprising: receiving a request for a portion of a file system by a client (notifying whether the portion is stored in a first location associated with portions of the file system that have been previously stored by the client (col. 7, lines 35-51);

However Wlaschin failed to disclose if not, determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by a server.

In the same field of endeavor Gayman disclosed if not, determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by a server (col. 6, lines 34-61).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by a server as taught by Gayman in the method of Wlaschin to improve the method's storing capability and make the file allocation method more diverse.

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3. As per claim 2 Wlaschin disclosed further comprising retrieving the portion from the server if not stored in the second location (col. 10, lines 37-42).

4. As per claim 3 Wlaschin disclosed wherein identifying further comprises associating portions of the file system used by the client during start-up with the first location (col. 10, lines 25-31).

5. As per claim 4 Gayman disclosed wherein determining further comprises associating the second location with portions of the file system that were streamed to the client using a multicast operation (col. 6, lines 54-60).

6. As per claim 5 Wlaschin disclosed wherein associating further comprises: monitoring accesses to a plurality of portions of the file system during start-up; retrieving the plurality of portions from the file system; and storing the plurality of portions in the first location (col. 6, lines 24-28 & col. 10, lines 58-63).

7. As per claim 6,20,21 Gayman disclosed wherein associating further comprises: retrieving a plurality of portions from the file system using multicasting; and storing the plurality of portions in the second location (col. 6, lines 38-45).

8. As per claim 7,24 Gayman disclosed further comprising waiting for the portion 2 to be streamed to the client if not stored in the second location (col. 6, lines 45-54).

9. As per claim 8,22,23 Gayman disclosed a system including: a processor; a storage medium including a software program that, upon execution: scans a first location associated with portions of a file system that have been previously stored by the system (col.4, lines 6-21); and scans a second location associated with portions of the file system that have been streamed to the system by a server (col. 6, lines 34-45).

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10. As per claim 9 Wlaschin disclosed wherein the first location is a non-volatile storage medium (col. 6, lines 24-28).

11. As per claim 10,18 Wlaschin disclosed wherein the non-volatile storage medium is a flash memory device (col. 5, lines 27-31).

12. As per claim 11 Wlaschin disclosed wherein the second location is a volatile storage medium (col. 5, lines 32-44).

13. As per claim 12 Wlaschin disclosed wherein the volatile storage medium is a memory device (col. 5, lines 32-44).

14. As per claim 13 Wlaschin disclosed wherein the first location comprises portions of the file system used by the client at start-up (col. 5, lines 19-31).

15. As per claim 14 Gayman disclosed wherein the second location comprises portions of the file system retrieved using a multicast operation (col. 6, lines 38-45).

16. As per claim 15,19 Gayman disclosed wherein the software program, upon execution, retrieves the portion from the server if not stored in the second location (col. 5, lines 50-57).

17. As per claim 16 Gayman disclosed wherein the contents of the second location are procured as a background operation (col. 7, lines 59-67).

Applicant's arguments are as follows:

18. Applicant argued that prior art did not disclose identifying portions of a file system that are previously stored by the client.

As to applicant's argument Walschin disclosed the original data already resident on a different partition is not written since it can be reconstructed from original read-only partition. However to ensure the integrity of the system, a unique identification number representing the original data is

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also stored so that the system can detect if the original data is missing or changed (col. 10, lines 25-31).

19. Applicant argued that prior art did not disclose how to determine if or where any streamed portions of a file system were stored.

As to applicant's argument Gayman disclosed when the central data provider (server) recognizes that another client machine such as the second client machine has joined the cyclic multicast session and has missed downloading portions of the image file (col. 6, lines 54-61).

20. Applicant argued that prior art did not mention anything about scanning a second location.

As to applicant's argument Gayman disclosed disk location can be used by the clients to identify a received packet and /or determine such packets sequence location within an overall disk image transmission (col. 5, lines 40-44).

21. Applicant argued that prior art did not disclose a medium storing instructions that processor-based system to receive a request for a portion of file system, identify if the portion is stored in a first location associated with portions of the file system that have been previously stored by the processor system, and if not, determine whether the portion is stored in a second location associated with portions of the file system that were streamed to the processor-based system.

As to applicants argument Gayman disclosed an identifier string and disk location are embodiment an identifier string and disk location are encoded (eg; in a header, not shown) in each transmission sent from the central data provider (server). Such identifier string and disk location can be used by the clients to identify a received packet and/or determine such packet's sequence location within an overall disk image transmission (col. 5, lines 35-44).

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22. Applicant argued monitoring accesses to a plurality of portions of the file system during start-up.

As to applicants argument Wlaschin disclosed the transmission of data items between physical locations can occur over any network communication system, including but not limited to TCP/IP, Novell IPX, Net BEUI (col. 6, lines 8-15). The client computer includes a journal partition stored on disk while the server includes a library partition and an archive partition that reside on the same or different storage devices within the server (col. 6, lines 20-27).

Arguments were not persuasive enough therefore the rejection is made final.

Conclusion

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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24. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (703)-305-4633.

25. The examiner can normally be reached on Monday to Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (703)-308-5221. The fax for this group is (703)-746-7239.

26. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-746-7239 (For Status Inquiries, Informal or Draft Communications, please label "PROPOSED" or "DRAFT");

(703)-746-7239 (For Official Communications Intended for entry, please mark "EXPEDITED PROCEDURE"),

(703)-746-7238 (For After Final Communications).

27. Any Inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-3900.

Any response to a final action should be mailed to:

BOX AF

Commissioner of Patents and Trademarks Washington, D.C.20231

Or faxed to:

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Hand-delivered responses should be brought to 4th Floor Receptionist, Crystal Park II,
2021 Crystal Drive, Arlington, VA 22202.

AM

Adnan Mirza

Examiner

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

LE HIEN LUU
PRIMARY EXAMINER